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November 2, 2022

Hon. Ona T. Wang
Magistrate Judge, US District Court for the Southern District of New York
Daniel Patrick Moynihan Courthouse
500 Pearl Street
New York, New York 10007

Re: *In re Application of Vale S.A. et al.*, 1:20-mc-00199-JGK-OTW

Dear Judge Wang:

We are counsel to RFR Holding LLC, RFR Realty LLC, R&S Chrysler LLC, and Aby Rosen (collectively, “RFR”). We write regarding RFR’s application dated July 19, 2021 (D.E. 93), as well as RFR’s follow-up letters dated February 15, 2022 (D.E. 135) and June 27, 2022 (D.E. 149), respectfully requesting pursuant to the Court’s Individual Practices in Civil Cases Rule III(b) that the Court allow RFR to move for an order shifting the expenses incurred by RFR in responding to subpoenas served on RFR by petitioners Vale S.A., Vale Holdings B.V., and Vale International S.A. (collectively, “Vale”).

On August 24, 2022, with Vale’s counsel on the line, I called Chambers and asked one of the Court’s law clerks about the status of RFR’s application. The clerk reviewed the docket, said she would alert the Court and her co-clerk to our inquiry, and stated that, if we did not hear back, we could follow up. We have not heard back.

We understand that the Court has many cases and is very busy. That said, it has now been over 15 months since RFR requested permission to make its expense shifting motion. These expenses are significant – \$341,868.34 in legal fees and costs and €259,983.41 in e-discovery vendor fees and costs. Moreover, these expenses were incurred on a fishing expedition based on a false allegation that Benny Steinmetz or his affiliated entities invested in a joint venture involving RFR and Signa Holding GmbH (“Signa”) to acquire the Chrysler Building. (D.E. 2 at 12-13.) As the documents produced by both RFR and Signa demonstrated, neither Steinmetz nor any of his affiliated entities ever had any direct or indirect interest in the Chrysler Building.

Accordingly, RFR respectfully requests that the Court promptly address RFR’s expense-shifting application so that the matter can be decided.

Respectfully submitted,

Andrew B. Kratenstein
cc: Counsel of Record (via ECF)